

Page 177

1 "custodial responsibilities."

2 Q. Well, who handles it? Who's in charge
3 of it? Is there one point person who takes care
4 of that?

5 A. In terms of payments or --

6 Q. In terms of anything like who set it
7 up, who gets the checking statement, who goes
8 down when you need changes on your signature
9 lines, and all that sort of stuff.

10 A. It's dealt with as a joint activity
11 via the management time.

12 Q. Do you know whose tax ID number
13 appears on the bank account?

14 A. I don't think there is one.

15 Q. No tax ID number. How about
16 signatories? Who can sign on checks? Do you
17 know that?

18 A. RBOC members.

19 Q. Depending on the amount, you may need
20 more signatures? Is that how it works?

21 A. Right, sometimes two, sometimes three.

Page 178

1 Q. You started to explain that as far as
2 the components of this service and database and
3 so forth that DSMI didn't own it. Did I hear you
4 correctly on that?

5 A. Uh-huh.

6 Q. How is ownership broken up or
7 allocated and to whom?

8 A. The service and the contents are all
9 property of the RBOCs.

10 Q. Okay. Do you know, is there a
11 specific ownership allocation as per each RBOC or
12 is it just joint tenancy?

13 A. It's just a joint activity. They've
14 never come to agreement as far as I know on any
15 percentages or anything like that.

16 Q. Okay. Are there any other constituent
17 parts that we would call property that make up
18 this operation?

19 A. Well, there are physical components
20 that each of the vendors who provide them, I
21 assume, own or lease or contract or somehow or

Page 179

1 another.

2 Q. When the vendors contract, with what
3 entity or group do they contract? Is it with the
4 SMT or is it with the RBOCs jointly or how is
5 that done?

6 A. Their contract for provision of
7 service is with the RBOCs.

8 Q. Jointly? Do all the RBOCs sign on
9 that contract?

10 A. Yes.

11 Q. Okay.

12 A. That's different from how they get
13 their hardware facilities, those kinds of things.
14 I have no idea how they handle provision of those
15 things.

16 Q. "They" meaning?

17 A. The vendors.

18 Q. The vendors. Is any money that may be
19 in excess of the operating needs of the SMT
20 available for distribution to anyone, and, if so,
21 is it distributed?

Page 180

1 A. I'm not sure what you're asking me.
2 Again, all of the money in the account is RBOC
3 money.

4 Q. Is it periodically -- surplusage
5 funds, are they distributed out to the RBOCs?

6 A. Yes.

7 Q. Is there a percentage formula for
8 making that distribution?

9 A. You mean one RBOC versus another?

10 Q. Yes.

11 A. Right now it's an even split four-way.

12 Q. Has it always been an even split?

13 A. Basically it has been split based on
14 how many RBOCs there were at the time.

15 Q. And has that always been true, just a
16 ratable -- that's not the right usage. I'm
17 sorry. Just an equal share?

18 A. There were some -- there was a period
19 in there where they split the revenues based
20 historical numbers as opposed to current numbers
21 until they could get themselves caught up, but at

Page 181

1 the premise I think it's always been based on how
2 many RespOrgs there were at the time. That was
3 the philosophy behind it.

4 Q. Behind distribution of revenues?

5 A. Behind how to split it.

6 Q. So am I hearing this correctly? If
7 one RBOC had -- explain to me again what you
8 meant by using the number of RespOrgs as part of
9 the equation.

10 A. Not RespOrgs. RBOCs.

11 Q. Oh, RBOCs. I thought I heard you say
12 RespOrgs?

13 A. If I did, I didn't mean that.

14 Q. Okay. Now who owns the computer?

15 A. The actual physical machine?

16 Q. Yes.

17 A. I can't tell you that.

18 Q. Who owns the software?

19 A. Telcordia owns the software.

20 Q. Okay. And is there any one party in
21 particular who is chiefly responsible for rate

Page 182

1 development under the tariff?

2 A. The RBOCs.

3 Q. But is there a point person there?

4 A. No.

5 Q. They do it jointly?

6 A. Well, they either do it jointly or
7 they have someone do it for them on their behalf,
8 but it varies from time to time as to who they
9 have do it.

10 Q. Like a consultant or someone who does
11 that service, a rate-expert-type firm?

12 A. Yes.

13 Q. Are you familiar with the rate expert
14 firms, if I may call them that, that have been
15 hired on occasion to do this for the RBOCs?

16 A. I know some of them, if that's what
17 you mean. I know the names.

18 Q. Okay. What are the names?

19 A. Bellcore did it for a while. KPMG did
20 it for a while. They've had a private contractor
21 who's done it a few times.

Page 183

1 Q. What's that name?

2 A. Charlie Rizzo, R-I-Z-Z-O.

3 Q. You said KPMG?

4 A. Yes.

5 Q. Do they have any affiliation or
6 connection with any of the RBOCs?

7 A. I wouldn't know that.

8 Q. How about Mr. Rizzo?

9 A. I wouldn't know that either.

10 Q. If I've asked this already, please
11 forgive me. How are the contractors and vendors
12 providing any kind of service pursuant to this
13 database and tariffing process, whether they
14 contract with the RBOCs or DSMI or otherwise?
15 How are they paid?

16 A. They submit monthly statements, and
17 the SMT pays them.

18 Q. Out of this bank account we've been
19 discussing?

20 A. Right.

21 Q. Okay. I've asked you about any recipe

Page 184

1 or formula for dividing surplus funds from the
2 bank account that may be distributed to RBOCs.
3 Is there a recipe or formula for allocating
4 expenses like these vendor costs as among the
5 RBOCs respectively?

6 A. I believe right now everything is just
7 split one-quarter each since there are four
8 RBOCs.

9 Q. Has that always been true?

10 A. I don't know that. I don't know how
11 they've done it in the past.

12 Q. Okay. What document, if any, governs
13 the distribution of revenue and allocation of
14 expense items that I've been asking you about?

15 A. I'm not sure there is a document.
16 Most of the topics, I think, have been addressed
17 as part of SMT minutes and recorded in the
18 meeting notes.

19 Q. Is there a charter or organizational
20 document or set of bylaws or something that
21 governs the SMT?

Page 185

1 A. There's a charter.

2 Q. Okay. And when these kinds of
3 decisions involving allocations and distributions
4 are made, are they made as amendments to the
5 charter or --

6 A. I don't think those are included in
7 the charter.

8 Q. What does the charter say? Have you
9 seen that?

10 A. Uh-huh, yes.

11 Q. Does it say anything substantive in
12 terms of rights and powers of governance among
13 the RBOCs who are participants or does it just
14 give a framework for procedure and
15 decision-making?

16 A. I would classify it more as a
17 framework, I think.

18 Q. How are the vendors selected by the
19 SMT for provisioning of service?

20 A. It depends on the vendor and the type
21 of vendor they're looking for. Some of them are

Page 186

1 selected as the result of a full RFP process,
2 request for proposal process. Some are
3 interviewed based on a list of candidates that
4 has been put together. It varies from group to
5 group based on whether or not the -- the
6 expectation is that it warrants a full-blown RFP
7 process or not.

8 Q. Are there conflict of interest
9 mechanisms in place in this decision-making
10 process, this selection of vendor process, to
11 filter out any conflicts?

12 A. Yes, there are.

13 Q. And are they in the charter of the
14 SMT?

15 A. No, they've just been agreements that
16 the team has reached whenever they get into one
17 of these situations.

18 Q. Are they done on an ad hoc basis?

19 A. Yes.

20 Q. Have there been conflicts presented?

21 A. Potential or actual?

Page 187

1 Q. Either.

2 A. Potential.

3 Q. Have there been any actual?

4 A. No, not that I'm aware of.

5 Q. If it's potential conflict is it
6 waivable under the charter?

7 A. I don't know what "waivable" means,
8 but these aren't addressed in the charter.

9 Q. Well, in practice, how are they
10 addressed?

11 A. The representative of the company that
12 has the potential conflict is recused from the
13 discussions, and they just don't participate.

14 Q. Okay. Mr. Wade, have you ever
15 published any article about the DSMI system
16 process effort? Are you an article writer and
17 publicist?

18 A. I don't know what you mean by "the
19 DSMI."

20 Q. Just about the work you do over there
21 at Bellcore and DSMI, your database, and the SMS

Page 188

1 tariff. Any trade publication or otherwise?

2 A. Not that I'm aware of. There was an
3 article on 800 number portability in one of our
4 internal magazines, but that's the only one that
5 I'm aware of.

6 Q. You authored that, did you?

7 A. Coauthored or joint authored.

8 Q. When was that authored?

9 A. Like '91, '92 probably, something like
10 that.

11 Q. What was the journal?

12 A. I don't know what it was. One of the
13 internal Bellcore at the time ones.

14 Q. Have you given speeches on SMS/800?

15 A. Frequently.

16 Q. Frequently. Are those written up?

17 A. No.

18 Q. They're extemporaneous?

19 A. Well, from a set of slides.

20 Q. Okay. Have you ever testified before
21 Congress?

1 A. No.
2 Q. Have you ever testified at any
3 proceeding in the FCC? I asked you that
4 question, didn't I?
5 A. Yeah. No. Yes, you asked. No, I
6 haven't testified.
7 Q. Now you've testified about this
8 recusal mechanism when something goes to the SMT
9 and there's a potential for conflict there in the
10 decision-making process and the involved
11 participant will step back. Is the potentially
12 conflicted RBOC allowed to participate in the
13 deliberations and just excluded from voting or is
14 the exclusion as to deliberation and voting?
15 A. Well, again, these are ad hoc
16 activities, and we have -- to the best of my
17 knowledge, we've only had one case, and I believe
18 at that point in time the representative did not
19 participate in any of the discussions.
20 Q. Okay. Now there's been a lot said in
21 this litigation with Beehive about equitable

1 administration of this numbering system and these
2 numbers, so I'm going to ask whether there are
3 any internal protocols, written or unwritten, at
4 DSMI that are keyed for the purpose of
5 maintaining neutrality in making decisions about
6 this number assignment process?
7 A. Number assignment process is an
8 automated process again.
9 Q. Yes, but that doesn't mean that
10 everybody gets treated the same necessarily. I'm
11 not implying anything by that. I mean, you've
12 testified about the Beehive unique situation with
13 this court order, for example. That's one
14 example, and the possibility exists for other
15 situations, I suppose. So what I'm asking is,
16 has anybody ever sat down at the DSMI level and
17 said we may face these things rather than dealing
18 with them ad hoc at the moment, let's have a set
19 of procedures that we hope through procedure will
20 ensure or advance fairness and neutrality?
21 Anything like that ever been done at DSMI?

1 A. I think the whole premise of having a
2 centralized database is to address that exact
3 problem and that's the reason that everything was
4 mechanized, so there is no intervention on
5 anybody's part.
6 Q. But to deal with the situation that is
7 the exception to that rule, like the Beehive
8 situation, if and when that arises?
9 A. Beehive is the exception to that rule.
10 Q. Was anything beforehand done by way of
11 anticipating this kind of situation and having
12 protocols to deal with it?
13 A. Yes, we mechanized everything we could
14 so there would be no human involvement.
15 Q. Anything other than that?
16 A. No.
17 Q. How about any such protocols or
18 procedure at the SMT level?
19 A. As far as I know, it's the same sort
20 of approach. Anything that's sensitive that has
21 to do with numbered administration activities is

1 mechanized.
2 Q. What about right at the beginning when
3 things were being transitioned and you had
4 carriers out there who had these codes and you
5 hoped, I suppose, under the guidelines that were
6 out there that they would turn them in and so
7 forth? In anticipation of that event and in
8 anticipation that there might be some mavericks
9 who didn't, was any thought given to a set of
10 procedures and guidelines that were dealing
11 partially with those situations as you recall?
12 A. As I recall there was an FCC mandate,
13 that they put their NXX codes into the system.
14 That's what we were working with.
15 Q. Anything other than that?
16 A. Not that I recall.
17 Q. How about in terms of what DSMI did,
18 if anything, to implement that mandate, if you
19 had responsibility to implement that mandate?
20 A. I'm not sure what you're asking me.
21 Q. Well, it's the same difference that

Page 193

1 you got with this Tenth Circuit order. You got a
2 mandate, but how is it interpreted and how is it
3 implemented?

4 MR. JENSEN: Are you talking about the
5 Tenth Circuit mandate?

6 MR. SMITH: He's asking me for
7 definition of what I'm asking, and I'm giving him
8 an example. Somebody has got to interpret that.
9 Somebody has got to implement that.

10 MR. JENSEN: What do you mean by
11 "that"?

12 MR. SMITH: That mandate?

13 MR. JENSEN: What circuit?

14 BY MR. SMITH:

15 Q. What does this mean?

16 MR. JENSEN: The Tenth Circuit
17 Mandate?

18 BY MR. SMITH:

19 Q. Yes. And a lot may depend on who does
20 either of those.

21 **A. That was not our call. That was up to**

Page 194

1 **the Commission.**

2 Q. You're talking now about the
3 earlier --

4 **A. Right.**

5 Q. -- transition period?

6 **A. Right. I mean, DSMI was not mandated.**
7 **The NXX holders were mandated.**

8 Q. So you didn't have to worry about it
9 is what you're telling me, right?

10 **A. We did worry about it. We tried to**
11 **work --**

12 Q. You didn't have to worry about
13 enforcing their mandate, correct?

14 **A. Right.**

15 Q. Now let's go back to the Tenth Circuit
16 and their mandate. Apparently you are worried
17 about enforcing that mandate. Is that a fair
18 statement?

19 **A. I don't think so. I think we're**
20 **worried about being in compliance with it.**

21 Q. And in that regard are you concerned

Page 195

1 about being fair to Beehive?

2 **A. Absolutely.**

3 Q. Okay. In that regard have you
4 considered the possibility of an impartial
5 procedure for interpreting what this mandate may
6 mean for purposes of either following or
7 enforcing it?

8 **A. I've discussed it with counsel. I've**
9 **taken their recommendation.**

10 Q. And you can't remember whether you
11 discussed it with anybody else?

12 **A. Correct.**

13 Q. I can't ask you what you discussed
14 with your attorneys, so I won't go there. Who
15 will DSMI call to be a witness at the hearing
16 before Judge Kimball at the end of July of this
17 year?

18 MR. JENSEN: I'll object to that
19 question. You're asking for attorney-work
20 product. We haven't made a determination as to
21 who will be the witnesses.

Page 196

1 MR. SMITH: Okay. Well, I'm asking,
2 and I'd like to know who they are and what their
3 telephone number is, what their address is. I'd
4 like to know -- I'd like to have a brief
5 description of the content of their testimony as
6 expected at the hearing.

7 MR. JENSEN: I'll make the same
8 objection. Mr. Wade is not going to answer that
9 question.

10 BY MR. SMITH:

11 Q. Mr. Wade, have you talked about who
12 might be called as a witness at the contempt
13 hearing at the end of July of this year to
14 testify on DSMI on behalf at that hearing with
15 anyone other than your counsel?

16 **A. No.**

17 Q. Okay.

18 MR. JENSEN: May we have a five-minute
19 break?

20 MR. SMITH: Sure.

21 (Pause in the proceedings.)

Deposition of Michael Wade

Page 197

1 MR. SMITH: Mark that as 5.
2 (Wade Deposition Exhibit Number 5 was
3 marked for identification.)
4 BY MR. SMITH:
5 Q. Do you have Exhibit 5, Mr. Wade?
6 A. Yes, I do.
7 Q. Is your Exhibit 5 the same as mine,
8 namely, the July 13, 1998, order from Judge
9 Jenkins?
10 A. I don't see a date on it.
11 Yes, July 13, 1998.
12 Q. Okay. Do you remember the first time
13 that you received and saw a copy of Exhibit 5?
14 A. No.
15 Q. Do you recall whether it was sometime
16 in July of 1998?
17 A. I don't have any recollection of it.
18 Q. Do you have any reason to think you
19 wouldn't have seen a copy of this in July of
20 1998?
21 A. Not if that's the date it was

Page 198

1 released.
2 Q. What do you remember from July 13th to
3 the end of July 1998 in terms of what you did at
4 DSMI or Telcordia or SMT to start obeying this
5 order and transmitting the toll free numbers
6 referenced there in to Beehive?
7 MR. JENSEN: I'm going to object to
8 the question because it assumes some facts that I
9 think are in dispute.
10 BY MR. SMITH:
11 Q. Just tell me what you did, if
12 anything, in the last half of July 1998 to get
13 these numbers restored to Beehive. Take me
14 step-by-step.
15 A. I have no idea of time frames here,
16 again. I know we filed an appeal, I believe,
17 after this.
18 Q. That's not responsive to my question.
19 My question is, what did you do to follow this
20 order?
21 A. We filed an appeal.

Page 199

1 Q. Okay. Did you do anything else?
2 A. We also, I believe, filed a request to
3 stop the order, whatever the right phrase is.
4 Q. Anything else?
5 A. I discussed it with counsel.
6 Q. Anything else?
7 A. Probably discussed it with the SMT.
8 That's probably in the meeting minutes somewhere.
9 Q. Do you remember what you discussed
10 with the SMT?
11 A. No, it would be in the notes.
12 Q. Do you remember what was said by
13 anybody?
14 A. No.
15 Q. Do you remember what you said?
16 A. No.
17 Q. Did you -- who would have been the
18 person at DSMI in July and August of 1998A who
19 would have pushed the button or input the data or
20 whatever you do with the computer at that time to
21 send these numbers back to Beehive?

Page 200

1 A. It wouldn't be -- it would be a
2 process that would have been activated and not
3 any individual one-step kind of activity like
4 that.
5 Q. Is there a person in charge of that
6 particular process at that time at DSMI?
7 A. I don't know what kind of a process
8 we're talking about here.
9 Q. Process to restore the numbers. You
10 tell me what it is.
11 A. There is no process. The numbers were
12 not restored.
13 Q. I know. But what would you have done
14 to restore the numbers? What steps would you
15 have taken?
16 A. I assume based on the input from
17 counsel that we would have done what we did,
18 which is file an appeal and --
19 Q. I'm not talking about legal steps to
20 resist the order. I'm talking about what you did
21 internally at the business as a business matter,

Page 201

1 as a technical matter, to follow the order?
2 **A. Technically the process would be to**
3 **probably run a batch job that would change the**
4 **RespOrg ID to whatever it was initially.**
5 Q. Did you tell someone to do that?
6 **A. No.**
7 Q. Did you tell anybody not to do it?
8 **A. Not that I recall.**
9 Q. Who would you have told to set that
10 process in motion? Is there a person there who
11 would have been in charge of that technical
12 process at that time?
13 **A. It probably would have been someone in**
14 **the development organization that would have done**
15 **it.**
16 Q. Is that at DSMI or is that at
17 Telcordia?
18 **A. That's Telcordia.**
19 Q. Who would be the potential candidates
20 there?
21 **A. I have no idea at the time. I don't**

Page 202

1 **remember who was there.**
2 Q. Did you ever call anybody over at
3 Telcordia about this?
4 **A. I have no idea.**
5 Q. Do you remember calling anybody at
6 Telcordia in July of 1998 about this order and
7 about batching something or getting the numbers
8 online to send back to Beehive?
9 **A. I have no idea. I don't remember.**
10 Q. How about in August?
11 **A. I don't remember.**
12 Q. Okay. How about in September of '98?
13 **A. I have no idea.**
14 Q. Do you remember writing something to
15 that effect?
16 **A. No.**
17 Q. Do you keep a Daytimer where you
18 record your calls?
19 **A. No.**
20 Q. Is the call from DSMI to Telcordia a
21 long distance call?

Page 203

1 **A. It depends on which facility, which**
2 **location they're in. It may be. Usually not.**
3 Q. How about this facility that you
4 mentioned that you would have called to get this
5 process in order?
6 **A. If I called somebody in the SMS**
7 **Development, it would have been a local call.**
8 Q. Who worked in the SMS Development
9 facility in July, August, and September of 1998?
10 **A. I can't tell you that.**
11 Q. Internally at DSMI do you have a habit
12 of keeping buck slips off of phone calls?
13 **A. No.**
14 Q. How about over at Telcordia?
15 **A. I don't know about that.**
16 Q. If you were called upon to show cause
17 that you hadn't just ignored a federal district
18 judge's order and you had to bend your oars to
19 prove that you did, what documents would you go
20 to at this stage of the game to find out whether
21 there was a written memorandum that you did

Page 204

1 something like this?
2 **A. No idea.**
3 Q. Since you got this contempt motion
4 this summer from Beehive, have you scratched your
5 head and puzzled about that and said, where would
6 I have put a document like this and gone
7 searching?
8 **A. I don't believe there is a document**
9 **like that.**
10 Q. Well, that's not my question. My
11 question is, have you given thought to it this
12 summer whether there would be a document that
13 would prove that you followed the judge's order
14 in July, August, and September of 1998?
15 **A. I don't know how to respond to that.**
16 Q. Did you consider it or not? Did you
17 give it a moment's thought?
18 **A. As to whether a document exists**
19 **somewhere?**
20 Q. As to whether you could demonstrate
21 your complaints with the court's order through

Page 205

1 documentary evidence?
2 **A. No, I didn't.**
3 Q. Okay. This Piscataway -- I'm probably
4 mispronouncing that. The facility where DSMI now
5 is headquartered, is that facility shared with
6 any other entity in the Telcordia/SAIC family of
7 entities?
8 **A. Yes.**
9 Q. Okay. Which others?
10 **A. Telcordia is housed in the same**
11 **facility.**
12 Q. Any other SAIC affiliate housed there?
13 **A. I don't know.**
14 Q. Do any RBOCs have space there?
15 **A. I don't know.**
16 Q. Do any RBOCs use those facilities
17 other than through DSMI's contractual
18 relationship with them?
19 **A. I don't know.**
20 Q. Who pays for the facility? Is it a
21 rent? Is it an ownership? What is it?

Page 206

1 **A. I have no idea.**
2 Q. Okay. You don't know how that's paid
3 and who pays it?
4 **A. The facility?**
5 Q. Yes.
6 **A. No.**
7 Q. How about for DSMI's share of the
8 facility?
9 **A. That's paid to Telcordia.**
10 Q. By DSMI?
11 **A. Yes.**
12 MR. SMITH: Mark this 6.
13 (Wade Deposition Exhibit Number 6 was
14 marked for identification.)
15 BY MR. SMITH:
16 Q. Okay. Showing you what's been marked
17 as Exhibit 6, Mr. Wade, can you identify that for
18 the record, please?
19 **A. It looks like a section from SMT**
20 **conference call notes.**
21 Q. Okay. Is this one of those conference

Page 207

1 calls about which you testified earlier that
2 occur every two or three weeks with the
3 management team?
4 **A. Yes, it is.**
5 Q. Now would it be fair to say that the
6 management team -- well, strike that. Who
7 prepared Exhibit 6?
8 **A. Who typed the meeting minutes?**
9 Q. Who kept the minutes and who typed
10 them, yes.
11 **A. Probably I did.**
12 Q. Okay. As a business representative
13 so-called of the management team, is it your
14 responsibility, Mr. Wade, to take minutes at
15 these management team meetings?
16 **A. It's DSMI's responsibility, yes.**
17 Q. And you're the DSMI liaison as the
18 management team?
19 **A. Currently there are two.**
20 Q. Who's the other one?
21 **A. Eric Chuss.**

Page 208

1 Q. So how does that work? Do you share
2 responsibility for taking the minutes or do you
3 generally do it?
4 **A. Currently?**
5 Q. Currently and historically. Answer
6 that in two parts.
7 **A. Before there were two of us, I did it.**
8 **When Eric came on board, Eric does it.**
9 Q. When did he come on board?
10 **A. About a year ago.**
11 Q. And how do you keep the minutes? Do
12 you keep them while the meeting is going on? Do
13 you take notes?
14 **A. Eric takes notes, yes.**
15 Q. Let's talk about when you did it,
16 okay?
17 **A. Okay.**
18 Q. When you do it, how did you do it?
19 **A. I kept notes.**
20 Q. Handwritten?
21 **A. Uh-huh.**

Page 209

1 Q. And then later did you transcribe
2 those notes or edit and type them into this type
3 of format that we have here in Exhibit 6?

4 A. Uh-huh, yes.

5 Q. Have you saved copies of your
6 handwritten version of the minutes?

7 A. No.

8 Q. Do you discard those at the time that
9 you prepare the typed version such as we have
10 here in Exhibit 6?

11 A. Yes.

12 Q. Was that always your practice?

13 A. Yes.

14 Q. After each meeting how soon thereafter
15 as a rule, if you can generalize, did you type
16 your notes of the meeting?

17 A. A week maybe, ten days.

18 Q. Did you edit when you typed as a rule
19 from your handwritten?

20 A. I'm not sure what you mean by "edit."

21 Q. Well, if you're like me, you kind of

Page 210

1 write in a shorthand but can recall what's in the
2 spaces, and then when you type it up formally,
3 you sort of fill it out. Does that describe the
4 process you would use?

5 A. Yes, it does.

6 Q. Okay. After each set of minutes is
7 retyped when you were doing it, is that typed set
8 as a matter of course submitted to the members of
9 the management team for their approval at the
10 following meeting?

11 A. Yes, it was.

12 Q. Okay. I have to ask these questions.
13 I'm sorry. Because as you probably are aware, we
14 received these documents that I'm now examining
15 you about this morning, so we haven't had a lot
16 of time to look at them. Moreover as warned in
17 advance by your counsel, they are -- what was the
18 word?

19 MR. JENSEN: Redacted.

20 BY MR. SMITH:

21 Q. Redacted. So that we only see parts

Page 211

1 of what's in the minutes, and I'm going to be
2 asking you about some of that as we go along.
3 That's why I'm a little curious about the
4 preparation process.

5 Now this Exhibit 6 has reference to
6 Beehive and a status report on the Tenth Circuit
7 Appeal. Do you see that?

8 A. Yes.

9 Q. And then it says, "More detailed
10 information regarding the Court action was
11 distributed via facsimile to SMT members on
12 Tuesday, November 17th." Do you see that
13 reference?

14 A. Yes.

15 Q. We don't have that attached to these
16 minutes. Do you know whether there's a reason
17 why it was not supplied to us?

18 A. I don't have a copy of it.

19 Q. Did you have a copy of it at the time
20 of November 18, '98, when this meeting was held?

21 A. Assuming I was the one who faxed it

Page 212

1 out, I did.

2 Q. Do you know whether you prepared the
3 fax?

4 A. No, I don't.

5 Q. Do you know who prepared the fax?

6 A. No, I don't.

7 Q. Okay. We'd like a copy of that as
8 part of what the team deliberations were about.

9 There's also a reference in here about
10 only three members being present and so there's
11 not a quorum. Do you see that?

12 A. Right.

13 Q. What was the quorum as of November 18,
14 '98?

15 A. I'm not sure how many companies there
16 were at that point in time. Quorum historically
17 has been defined as the majority plus one. I'm
18 not sure how many companies there were at that
19 point in time. There may have been five; there
20 may have been six. It would have depended.

21 Q. That leads me to the next question,

Page 213

1 which is, as to most of these documents that
2 you've given by way of meeting minutes, there's a
3 reference to who was in attendance on an attached
4 sheet. We don't have those, so we'd like to have
5 those. We need those. Otherwise we can't make
6 sense out of even the redaction?

7 MS. TUCKER: What does he need, who
8 was in --

9 MR. SMITH: I'll give you a specific
10 example as I go through the pile.

11 MR. JENSEN: You want the list of
12 attendees for each one?

13 MR. SMITH: Yes.

14 MR. JENSEN: I think we can get that.

15 MR. SMITH: Okay. And the November
16 17th fax that's referenced on Exhibit 6.

17 MR. JENSEN: Assuming such a thing
18 exists.

19 MR. SMITH: It says right here that it
20 exists.

21 MR. JENSEN: It existed on November

Page 214

1 18, 1998.

2 MR. SMITH: This is Number 7.

3 (Wade Deposition Exhibit Number 7 was
4 marked for identification.)

5 BY MR. SMITH:

6 Q. Showing you what's been marked as
7 Exhibit Number 7, Mr. Wade, I'll tell you that
8 this Number 7 was the next page in order
9 sequentially that we received after Number 6, but
10 as you can see there's no date or meeting
11 referenced. Can you see that? It's hard for us
12 to get any kind of sense out of this because we
13 don't have a heading or a dating for it.

14 We want that, Floyd.

15 Mr. Wade, it doesn't look to us like
16 Exhibit 7 is part of Exhibit 6. Looking at the
17 two exhibits, can you tell whether 7 is part
18 of 6?

19 A. No, I can't.

20 Q. Okay. The Bates stamping that has
21 been done there shows a gap of ten pages, so we

Page 215

1 need the dates as well as the attached attendees
2 to know what's going on here. Now looking at the
3 last paragraph on Exhibit 7, Mr. Wade, it said,
4 Mike Wade will work with Floyd Jensen to draft a
5 plan to release the 800-629 numbers into the pool
6 of available numbers. SMT members recommend that
7 the judge and BTC be informed after the release
8 has occurred. Was that the decision of this
9 meeting?

10 A. It was in agreement of the SMT.

11 Q. The SMT. Do you need agreement from
12 anybody else to implement this plan?

13 A. I mean, this is all the agreements
14 that you need. I don't know what you're asking.

15 Q. Well, I'm asking you to confirm since
16 I don't have any reference to vote here. I don't
17 even know who's in attendance because I haven't
18 been given that part of the document. You see?
19 Were you at this meeting?

20 A. I don't know. I don't know when this
21 meeting occurred either.

Page 216

1 Q. Your name is mentioned. I realize
2 that doesn't mean you were there.

3 A. Right.

4 Q. Do you remember being at this
5 particular meeting where this particular
6 resolution was passed?

7 A. We don't even know when this meeting
8 was.

9 Q. I know. But you might remember it
10 from the content of the resolution.

11 A. No.

12 Q. Do you remember receiving directions
13 from the SMT to work with Floyd Jensen, et
14 cetera, et cetera as reflected in Exhibit 7?

15 A. No.

16 Q. And to release the numbers and then
17 tell the judge?

18 A. No.

19 Q. Okay. Do you remember any follow-up
20 conversations you may have had yourself with any
21 of the SMT members about taking these steps,

Page 217

1 namely, releasing the numbers and then telling
2 the judge?

3 A. No.

4 Q. Okay. As to the type of documents I'm
5 going to be talking to you about -- and we've
6 looked at two of them here, 6 and 7. Were these
7 assembled under your direction, Mr. Wade?

8 A. They were found under my direction,
9 yes.

10 Q. Okay. Who did you direct to find
11 them?

12 A. It depends on what the date on this
13 one was. If it was prior to '98, I think I
14 scanned them myself. It was after '98, it was
15 Eric Chuss, I believe.

16 Q. Why the difference in timing?

17 A. I had the files up through '98.

18 Q. Okay. Because you had been the
19 secretary so to speak during that period?

20 A. Correct.

21 Q. Okay. Did you give Mr. Chuss any

Page 218

1 particular directions in terms of what to look
2 for?

3 A. Any occurrence of the word "Beehive."

4 Q. Okay. Is that what you looked for in
5 doing your part?

6 A. Yes.

7 Q. Okay. Do you know who Bates stamped
8 them?

9 A. Someone from Ray, Quinney & Nebeker.

10 Q. Now Exhibit 7 mentioned that there's a
11 plan -- there's going to be a plan to release the
12 numbers into the pool of available numbers. What
13 status did the numbers have at this time before
14 they were to be released to available, do you
15 remember?

16 A. No, I don't.

17 Q. What are my options other than
18 available at this point in time?

19 A. Well, there's a series of statuses.
20 They could have been in working status; they
21 could have been in unavailable status; they could

Page 219

1 have been in virtually any status but assigned to
2 a RespOrg or a RespOrg ID code that would be
3 assigned to one entity or the other. There's two
4 kinds of statuses going on here.

5 Q. What does "unavailable" mean?

6 A. The unavailable number status?

7 Q. Yes.

8 A. It means the number is not available
9 for assignment within the system.

10 Q. How is that unavailability affected?

11 A. That's a numbered status within the
12 system. When that status is put on a number,
13 then the system blocks the ability of anybody to
14 build a record against it. It can't be
15 downloaded to a database.

16 Q. A Key stroke, right, or something?
17 UNA or something?

18 A. Right.

19 Q. A code is entered, right?

20 A. Right.

21 Q. Okay. Do you know when that code was

Page 220

1 entered as to these 629 numbers in reference to
2 what we have here as Exhibit 7?

3 A. No, I don't.

4 Q. Okay, 8.

5 (Wade Deposition Exhibit Number 8 was
6 marked for identification.)

7 BY MR. SMITH:

8 Q. Okay. Can you identify 8 for the
9 record, Mr. Wade?

10 A. It appears to be a section from more
11 meeting notes.

12 Q. Do you know why this particular
13 document was selected to produce to Beehive?

14 A. No.

15 Q. It says, If you have questions or
16 comments regarding these notes, please contact me
17 at 732. After the deposition, perhaps if I
18 called you at that number you could answer my
19 question about this.

20 MR. JENSEN: Perhaps not.

21 MR. SMITH: Perhaps we could have

Page 221

1 Mr. Brothers call you at that number. Now what
2 number are we on? This is 9.

3 (Wade Deposition Exhibit Number 9 was
4 marked for identification.)

5 BY MR. SMITH:

6 Q. Can you identify for the record Number
7 9?

8 A. Conference call notes from May 2,
9 1997.

10 Q. Okay. Is this your management team
11 again?

12 A. Yes, it is.

13 Q. Did you prepare Exhibit 9?

14 A. Did I take the meeting notes?

15 Q. Yes.

16 A. Probably.

17 Q. And then from those notes did you type
18 up Number 9?

19 A. Yes.

20 Q. Okay. Were you in attendance at the
21 May 2, 1997, conference call?

Page 222

1 A. Probably.

2 Q. What does this waiver request that's
3 referenced in this?

4 A. There was a waiver of the Part 32
5 requirements that was filed by the RBOCs to allow
6 accounting for SMS/800 costs and revenues to be
7 done on DSMI's books.

8 Q. Okay. Do you -- was that waiver
9 granted by the FCC?

10 A. Yes, it was.

11 Q. And when was it granted?

12 A. I --

13 Q. This is May 2, 1997.

14 A. I don't remember what the date was.

15 Q. Since the time that it was granted and
16 continuously through the present, has that
17 accounting been done on the DSMI books?

18 A. No.

19 Q. Okay. Was there a change then at some
20 point?

21 A. Yes, there was.

Page 223

1 Q. When did that change occur?

2 A. When Telcordia was sold to SAIC.

3 Q. Since the time of that sale, how has
4 the accounting been done?

5 A. The RBOCs have their own accounting
6 firm who maintains their books.

7 Q. Okay. Was it deemed necessary to
8 obtain a further order from the FCC to
9 accommodate that change?

10 A. Actually, the FCC issued an order
11 withdrawing the waiver because of the sale.

12 MR. SMITH: Okay. Mark this 10.

13 (Wade Deposition Exhibit Number 10 was
14 marked for identification.)

15 MR. SMITH: What I would suggest,
16 Floyd, is that when the deposition is prepared,
17 at the latest -- I mean, if you can do it before,
18 that would be great. But at the latest when it's
19 prepared, insert the redacted sheet that shows
20 date of meeting and participants. Insert them
21 through the court reporter for each of the

Page 224

1 exhibits that were marked.

2 MR. JENSEN: Okay.

3 MR. SMITH: I guess we'd want you to
4 do that even for the ones that we're not marking;
5 although, there may be more urgency with the
6 exhibits.

7 BY MR. SMITH:

8 Q. We're on 10. Do you know what that is
9 Mr. Wade?

10 A. I believe it's an excerpt from another
11 set of meeting notes, conference call notes.

12 Q. Is this the management team again?

13 A. I assume so.

14 Q. Can you tell from the content of this
15 excerpt when this meeting was held?

16 A. No.

17 Q. It references a letter that's
18 responsive to a letter from Beehive to the
19 RespOrgs about the 629 numbers. Do you see that?

20 A. Uh-huh, yes.

21 Q. Was the letter that was drafted by

1 Mr. Jensen that was responsive to the Beehive
2 letter circulated to members of the team either
3 in conjunction with this meeting that's reflected
4 in Exhibit 10 or after the fact?

5 **A. Well, it says it was.**

6 Q. It says the letter was reviewed by the
7 SMT, you're right. Does that mean all members
8 saw it?

9 **A. I don't know that.**

10 Q. We'd like to see a copy of the letter
11 as reviewed by the SMT as part of these minutes.
12 If you could, attach that.

13 **A. I'm not sure that I have a copy of**
14 **that. As a matter of fact, I'm pretty sure I**
15 **don't have a copy of that.**

16 Q. Well, I guess if you were the
17 custodian of the minutes at that time --

18 **A. Well, the letter is not part of the**
19 **minutes.**

20 MR. SMITH: Mark this 11.

21 (Wade Deposition Exhibit Number 11 was

1 marked for identification.)

2 BY MR. SMITH:

3 Q. Okay. Can you identify Exhibit 11?

4 **A. It appears to be another portion of**
5 **conference call or meeting notes.**

6 Q. Okay. Would these be SMS management
7 team notes?

8 **A. It appears so.**

9 Q. Okay. Now judging from the content of
10 these notes, I would guess that this was a
11 meeting in or about July of 1998. Would you have
12 the same guess?

13 **A. I have no idea.**

14 Q. Well, it's talking about a response to
15 Judge Jenkins' order and an appeal on that. Do
16 you see that?

17 **A. Uh-huh, yes.**

18 Q. Do you have any reason to believe that
19 this meeting occurred at a time other than July
20 or August of 1998?

21 **A. I have no idea when the meeting**

1 **occurred.**

2 Q. Okay. That wasn't my question,
3 though. My question was, do you have any reason
4 to believe that Exhibit 11 would be reflecting a
5 meeting other than in July or August of '98?

6 MR. JENSEN: Alan, to clarify, this
7 document refers to an appeal, and, for the
8 record, if my recollection is not mistaken, there
9 were at least two appeals, one in 1996 and one in
10 1998.

11 MR. SMITH: Right. That's a good
12 clarification, but it does refer to an order.
13 And there's a question as to what that means, I
14 suppose.

15 BY MR. SMITH:

16 Q. In any case, do you have any idea
17 based on what Floyd and I are discussing here
18 when this meeting might have been held?

19 **A. No idea.**

20 Q. There's a reference to a proposed
21 settlement with Beehive that's discussed and then

1 rejected. Do you have recollection of that
2 settlement discussion?

3 **A. No.**

4 Q. Do you have recollection of any
5 conversations after the meeting about any such
6 settlement proposal?

7 **A. No.**

8 Q. Do you remember anything about who put
9 forward the proposal at the meeting?

10 **A. No.**

11 Q. Do you have any recollection as to why
12 the proposal was rejected or the discussion that
13 led to rejection?

14 **A. No.**

15 Q. Okay. Number 12.

16 (Wade Deposition Exhibit Number 12 was
17 marked for identification.)

18 BY MR. SMITH:

19 Q. Can you identify Number 12, Mr. Wade?

20 **A. Again, it looks like a set of meeting**
21 **notes from an SMT meeting or conference call.**

Page 229

1 Q. And judging from your line there or
2 your name at the end, is it fair to conclude that
3 you prepared these?

4 A. Yes.

5 Q. So is it fair also to conclude then
6 they were 1998 or before?

7 A. It could have been early '99.

8 Q. What does it mean when it says, "Mike
9 Wade reviewed the question of an appropriate
10 response to the BTC request for negotiations
11 under the Telecommunications Act of 1996"?
12 What's being referenced there?

13 A. It means what it says.

14 Q. Do you remember what you said to the
15 group when you made that review?

16 A. No.

17 Q. Do you remember the specific
18 circumstance that prompted that review?

19 A. No.

20 Q. The reference to BTC is a reference to
21 Beehive, correct?

Page 230

1 A. Yes, it is.

2 Q. It says that you're going to respond
3 to Beehive with an inquiry, et cetera. Did you
4 make such an inquiry after this meeting?

5 A. I don't remember.

6 Q. Do you remember inquiring to Beehive
7 in writing or conversation about how the
8 Telecommunications Act of 1996 might affect how
9 Beehive uses toll free service?

10 A. No.

11 Q. Okay. Number 13.

12 (Wade Deposition Exhibit Number 13 was
13 marked for identification.)

14 BY MR. SMITH:

15 Q. Can you identify Number 13?

16 A. Again, it appears to be a section of
17 notes from an SMT meeting or conference call.

18 Q. Okay. Do you know whether you were
19 the person who prepared these particular notes
20 that are reflected in Exhibit 13?

21 A. No, I don't.

Page 231

1 Q. Where it says, "A readout of the
2 current status of activities related to BTC was
3 provided," do you know who provided that readout?

4 A. No, I don't.

5 Q. It says that there was an agreement to
6 file an appeal on the hearing transcript if
7 necessary, and then there's a reference that a
8 meeting with the appropriate parties could also
9 be scheduled if required. Who are the
10 appropriate parties that are being referenced
11 there?

12 A. I have no idea.

13 Q. Outside of the SMT, who would be
14 considered an appropriate party to include in
15 that type of discussion?

16 A. I have no recollection of what the
17 discussion was about.

18 Q. About the appeal from the hearing
19 transcript. Were there at any time some members
20 of the team who were more concerned or more
21 interested for any reason in the litigation with

Page 232

1 Beehive than others?

2 A. There were -- there was some sense I
3 think on the part of U.S. West that they might be
4 closer to the activity because of the proximity
5 with Beehive territory, but I don't know that I
6 would say their team member felt any more
7 involved or less involved than anybody else.

8 Q. So with that discussion in mind, do
9 you have any kind of recollection as to who the
10 appropriate parties would be as referenced in
11 Exhibit 13?

12 A. No.

13 Q. Okay. Do you know of any document
14 outside of Exhibit 13 that would identify what is
15 meant by "appropriate parties" that's used in
16 Exhibit 13?

17 A. No.

18 MR. SMITH: I'm glad we're off of 13
19 since that's an unlucky number, and we're on to
20 14. Number 14.

21 (Wade Deposition Exhibit Number 14 was

Page 233

1 marked for identification.)

2 BY MR. SMITH:

3 Q. As the litigation between DSMI and
4 Beehive commenced and continued, who was the US
5 West member on the management team, Mr. Wade?

6 A. Well, that's changed several times
7 over the years.

8 Q. Who was it in 1996 in May?

9 A. I don't remember.

10 Q. Okay. Who's the most recent member in
11 time that you can remember?

12 A. Ted Fernandez, who's there now.

13 Q. Okay. And before him?

14 A. A woman named Tessa Alexander.

15 Q. Okay. And before Ms. Alexander?

16 A. I don't remember.

17 Q. Okay. What type of interest did the
18 U.S. West representative show in the conduct with
19 the litigation between Beehive and DSMI?

20 A. None any different than anybody else.

21 Q. Do you remember their attitude toward

Page 234

1 the litigation specifically?

2 A. No.

3 Q. Do you remember whether Ms. Alexander
4 and Mr. Fernandez shared the same attitude,
5 generally speaking, about the litigation and what
6 course to pursue?

7 A. I don't recall.

8 Q. Okay. Are we on 14? Can you
9 identify 14? Thankfully we have a date on this,
10 June 18-19, 1996. Are these more SMS management
11 team minutes?

12 A. Yes.

13 Q. Did you prepare these?

14 A. Probably.

15 MR. SMITH: Number 15.

16 (Wade Deposition Exhibit Number 15 was
17 marked for identification.)

18 BY MR. SMITH:

19 Q. Can you identify Number 15?

20 A. It appears to be another set of notes
21 from an SMT conference call.

Page 235

1 Q. Did you prepare Exhibit 15, Mr. Wade?

2 A. Probably.

3 Q. Who prepared the agendas for the
4 meetings?

5 A. Usually I did.

6 Q. And what was the process in putting
7 the agenda together? Did you just invent it in
8 terms of what was on your mind or did you solicit
9 input from other members of the committee?

10 A. Both.

11 Q. Was there a standard procedure where
12 that was done, say, a week or two before a
13 meeting or something?

14 A. The agenda would go out in draft form.
15 If there were additions or changes, people would
16 let me know.

17 Q. Was there a manner in which items were
18 ranked on the agenda? Was it like you say your
19 tariff is first come/first served or was it
20 according to some sense of urgency or priority or
21 just catch as catch can?

Page 236

1 A. The only time there was any
2 prioritization done was if there were specific
3 topics that people wanted to be added and they
4 had time constraints or something like that.
5 Otherwise, it was just sort of a stream of
6 consciousness.

7 Q. "They had time constraints," meaning
8 there were time constraints to respond to the
9 agenda item or time constraints on the member who
10 was putting that on the agenda?

11 A. Time constraints on anybody who was
12 participating in the meeting. If a particular
13 person wanted to be sure they were there for some
14 discussion and they could only stay for the
15 morning, then we shuffled the agenda.

16 Q. Where that sort of time and concern
17 was not present, did you rank the items in
18 accordance with any set of the priorities?

19 A. No.

20 Q. So the fact that on Exhibit 15 the
21 first item out of the shoot involves Beehive says

Page 237

1 nothing in terms of its relative importance on
2 this given date? Is that a fair statement?
3 **A. Yes.**
4 **Q. Okay. Now you see here it's**
5 **referencing -- potential action plans were**
6 **discussed. Do you see that?**
7 **A. Uh-huh.**
8 **Q. What were those?**
9 **A. I have no idea.**
10 **Q. Was one of them that a block of**
11 **numbers, the 629 nine numbers, be assigned to a**
12 **RespOrg?**
13 **A. I have no idea.**
14 **Q. Does that refresh your recollection to**
15 **look at the last sentence in what you've given us**
16 **here on Exhibit 15?**
17 **A. Does it refresh my recollection of**
18 **what?**
19 **Q. Whether one potential action plan was**
20 **to assign the 629 numbers to another RespOrg?**
21 **A. I have no idea.**

Page 238

1 **Q. As a block?**
2 **A. I don't think that's what that is**
3 **saying.**
4 **Q. Well, let me say this. One way to**
5 **interpret these minutes is to say -- "Potential**
6 **action plans were discussed. If was stated that**
7 **the assignment of a block of numbers to an**
8 **individual Responsible Organization (RespOrg)**
9 **would require a waiver from the Federal**
10 **Communications Commission." The juxtaposition of**
11 **those sentences might suggest that you discussed**
12 **action plans, somebody said, hey, let's take the**
13 **numbers 629 and all 10,000 of them that we've now**
14 **disconnected, hand them over to another RespOrg,**
15 **that will stop them out there in Utah. Then**
16 **another member raises his hand, and he says, no,**
17 **that would take a waiver from the FCC. That's**
18 **one possible interpretation. Does that refresh**
19 **your recollection of what might have been**
20 **discussed at the meeting reflected in Exhibit 15?**
21 **A. No.**

Page 239

1 **Q. Why is the discussion of waiver from**
2 **the FCC taking place in connection with Beehive?**
3 **Did somebody discuss assigning back the 10,000**
4 **numbers that had just been disconnected to**
5 **Beehive back to Beehive but you wanted an FCC**
6 **approval before you did that? Was that what this**
7 **means?**
8 **A. I think you've asked me about three**
9 **times whether I know what the potential action**
10 **plans were, and my answer has been no.**
11 **Q. I'm trying to jog your memory.**
12 **A. Well --**
13 **Q. Since you were the man who had to come**
14 **to Utah and testify, right?**
15 **A. I testified there.**
16 **Q. And this was the day before you**
17 **testified, wasn't it?**
18 **A. I have no idea.**
19 **Q. The hearing was June 13th, was it not?**
20 **A. I don't know.**
21 **Q. Do you remember whether any particular**

Page 240

1 **RespOrg was under consideration in terms of this**
2 **block assignment of numbers?**
3 **A. I think you're misstating that again.**
4 **Q. Well, it was stated that the**
5 **assignment of a block of numbers to an individual**
6 **responsible RespOrg would require a waiver.**
7 **A. Right.**
8 **Q. My question is, was there a particular**
9 **RespOrg that was mentioned in this connection?**
10 **A. Again, I think you're misstating it.**
11 **Q. Just to answer --**
12 **A. There was no discussion about whether**
13 **or not -- I don't read this as saying that there**
14 **was a discussion about whether or not it could be**
15 **assigned to this RespOrg or that. The statement**
16 **that says --**
17 **Q. I'm not asking you how you read it.**
18 **I'm asking you whether when you were there this**
19 **reference to RespOrg means that there was a**
20 **discussion of a specific RespOrg at that time.**
21 **Was there such a discussion? That's the**

Deposition of Michael Wade

Page 241

1 question.

2 **A. I don't know.**

3 Q. Okay. Now looking back to June 12,
4 1996, and what you knew there about this waiver
5 process that is being discussed in Exhibit 15 --
6 okay? This is as of June 12, 1996. Do you know
7 who would have been approached at the FCC to
8 obtain such a waiver as it's being noted here?

9 **A. Again, I disagree with your premise.**

10 Q. We're okay on this. I'm not implying
11 that necessarily this was done, okay? My
12 question is different. My question is -- there's
13 a reference here to obtaining a waiver. I'm
14 inferring that a waiver process is available.
15 I'm asking, do you know if that process is
16 available who the contact person at the FCC would
17 have been in June of 1996?

18 **A. And I don't know anything about a
19 waiver process to handle this.**

20 Q. Okay. Prior to June 1996, had you
21 ever been involved in seeking such a waiver from

Page 242

1 the FCC?

2 **A. No.**

3 Q. Have you had any experience with such
4 a waiver process since that time?

5 **A. No.**

6 Q. Okay. Do you remember what member at
7 the meeting on June 12, '96, made this comment
8 which is reflected in your last sentence of these
9 minutes, which is Exhibit 15?

10 **A. No.**

11 Q. Do you remember raising your eyebrows
12 when the comment was made thinking to yourself,
13 I've never heard of such a waiver thing?

14 MR. JENSEN: He's testified already he
15 doesn't recall the discussions, so how could he
16 recall whether his eyebrows were raised?

17 MR. SMITH: He may have recalled that
18 physical sensation. Sometimes that's what we
19 recall. We may not recall things intellectually,
20 but something to do with our body like a gasp or
21 a feeling --

Page 243

1 MR. JENSEN: The premise of your
2 question assumes that he recalls that there was
3 such a statement made, and he's already testified
4 he does not recall such a statement being made.

5 MR. SMITH: He wrote these minutes.
6 There's some indication that something like that
7 was discussed. I'm just wondering whether you
8 had some emotional feeling that was now subject
9 to recall. I don't remember what my first date
10 said to me, but I remember how I felt in her
11 presence. You see? That's the distinction I
12 made. Sometimes these things help us to
13 remember. Memory is a tricky thing.

14 All right. This is 16 and this is 17.
15 (Wade Deposition Exhibit Numbers 16-17
16 were marked for identification.)

17 BY MR. SMITH:

18 Q. Now Number 16, just for the record,
19 Mr. Wade, that's more management team minutes,
20 right?

21 **A. It appears so.**

Page 244

1 Q. And involving the Beehive/DSMI
2 litigation, correct?

3 **A. Yes.**

4 Q. Now I assume that -- well, you tell me
5 if I'm right. That when you put together this
6 document production that you gave to Mr. Lukas
7 and I today that you got all of the DSMI board of
8 director's meeting minutes in the same package of
9 documents that you delivered to us, correct?

10 **A. I believe all the documents where
11 Beehive is discussed.**

12 Q. I'm going to be able to go through
13 this stack of documents sitting in front of me
14 and I'll see all of the references to the
15 management team discussions about Beehive and
16 DSMI litigation, and at the same time I'll see
17 the place and time when DSMI's board of directors
18 reviewed the same things; is that correct?

19 **A. Yes.**

20 Q. And I'll be able to compare the
21 frequency of discussion between the two groups,

1 correct, from these minutes? Now looking at
2 what's been marked as Exhibit Number 17, can you
3 identify Number 17?

4 **A. It says it's a listing of toll free**
5 **numbers.**

6 Q. Okay. And did DSMI provide this in
7 connection with a FCC proceeding involving
8 Beehive and DSMI or involving the SMS/800 tariff?

9 **A. I have no idea where this is from.**

10 Q. Can you identify from the printout
11 sheet who the preparer was of Exhibit Number 17?

12 **A. No.**

13 Q. Okay. Does the printout sheet look
14 like it is generated from DSMI's offices?

15 **A. No.**

16 Q. Can you tell from which office it
17 might be generated, say, Telcordia or an RBOC?

18 **A. No.**

19 Q. Do you recognize the code designations
20 on this document, which is Exhibit 17?

21 **A. Which code designations?**

1 Q. And the first one from the top says,
2 "The SMS/800 HD made EMRG. RO change BRDO1 to
3 LGT01 on," and then the typing shifts over to the
4 far left, "2/13/97." Do you see that?

5 **A. Uh-huh.**

6 Q. Do you know what that means?

7 **A. Do I know what means?**

8 Q. What I just read. HD, for example?

9 **A. I assume that's help desk.**

10 Q. Okay. EMRG., emergency?

11 **A. Emergency RespOrg change.**

12 Q. BRDO1, is that a RespOrg code?

13 **A. It fits the format.**

14 Q. The LGT01, is that a RespOrg code.

15 **A. Again, it fits the format.**

16 Q. And the change effected on February
17 13, '97, correct?

18 **A. There wasn't a question there.**

19 Q. No, I asked correct, question mark.

20 **A. Is what correct?**

21 Q. It says --

1 Q. Well, looking at the printout portion
2 after the cover letter and starting with the
3 first page after the cover letter -- are you with
4 me?

5 **A. Uh-huh.**

6 Q. At the top it says "Dial Number."
7 That's the applicable 629 number?

8 **A. Correct.**

9 Q. Then it gives us the status, right?

10 **A. Right.**

11 Q. Working or unavailable. You've talked
12 about those in the deposition, right?

13 **A. Right.**

14 Q. It says "RO." That's, I take it, the
15 RespOrg code, correct?

16 **A. Probably. It looks like it.**

17 Q. Well, you see the ATX01 down there.
18 Isn't that AT&T as you earlier testified?

19 **A. Right.**

20 Q. It says "Comments." Do you see that?

21 **A. Right.**

1 **A. You read it to me. Is that --**

2 Q. Is that what this signifies?

3 **A. Well, I'm guessing. Like I said, I**
4 **haven't seen this document before or not that**
5 **I remember anyway. It looks like it says**
6 **there was an emergency RespOrg change**
7 **February 13, '97.**

8 Q. Could this document have been
9 generated by the help desk?

10 **A. It could have been.**

11 Q. Didn't you tell me earlier that help
12 desk was primarily responsible, if not
13 exclusively responsible, for subscriber changes
14 of RespOrgs?

15 **A. Right.**

16 Q. So you have never seen Exhibit 17
17 before?

18 **A. I don't have any recollection of**
19 **seeing it before.**

20 MR. SMITH: Okay. Number 18.

21 (Wade Deposition Exhibit Number 18 was

Deposition of Michael Wade

Page 249

1 marked for identification.)
 2 BY MR. SMITH:
 3 Q. Now before we broke for lunch,
 4 Mr. Wade, I was asking you about the policeman
 5 responsibility, if any, that DSMI might have as
 6 far as the RespOrg subscriber relationship and
 7 what a RespOrg could charge a subscriber in their
 8 contractual relationship and so forth. Is there
 9 anything in the SMS/800 tariff that would forbid
 10 a RespOrg from charging zero dollars under its
 11 contractual relationship with a subscriber so
 12 long as the RespOrg paid the applicable tariff
 13 rate or assignment of the numbers to the RBOCs
 14 under the tariff?
 15 A. The SMS/800 tariff doesn't impact that
 16 relationship.
 17 Q. Okay. Do you have Number 18?
 18 A. Yes.
 19 Q. Now are these more management team
 20 minutes?
 21 A. They appear to be.

Page 250

1 Q. And were they prepared by you?
 2 A. Probably.
 3 Q. Okay. I notice here under paragraph 2
 4 towards the bottom of the page -- in fact, it's
 5 the second -- well, it's the penultimate
 6 paragraph on Bates stamp 92. "Agreement:
 7 US West agreed to take the lead in filing the
 8 complaint against BTC." Is that Beehive?
 9 A. Yes.
 10 Q. What complaint is being referenced
 11 there?
 12 A. I have no idea.
 13 Q. This is discussed in the paragraph
 14 above. "The question of what company should file
 15 the planned complaint against BTC was also
 16 discussed." Do you also see that?
 17 A. Yes.
 18 Q. What complaint are they talking about
 19 here that's being planned?
 20 A. I have no idea.
 21 Q. In March 5, 1996?

Page 251

1 A. I have no idea.
 2 Q. Was it the complaint that ultimately
 3 was filed by DSMI?
 4 MR. JENSEN: The question has been
 5 asked and answered.
 6 MR. SMITH: I'm trying to refresh his
 7 recollection to see if that jogs it.
 8 THE WITNESS: I have no idea.
 9 BY MR. SMITH:
 10 Q. This says, "Action." What does that
 11 signify at the very bottom of Exhibit 18? Is
 12 that the action that's been directed by the
 13 management team?
 14 A. It indicates an action item that was
 15 assigned.
 16 Q. We've talked now, this is to be done.
 17 Is that what it means?
 18 A. It indicates an action item that was
 19 assigned.
 20 Q. You were assigned, according to
 21 Exhibit 18, to assure that an informal contact is

Page 252

1 made with BTC in advance of the filing of any
 2 formal complaint. Do you know what that was?
 3 A. No.
 4 Q. Do you know whether you did it?
 5 A. No.
 6 Q. Where's the rest of this item? It
 7 says, "The purpose of the informal." and then
 8 it's cut off. There's another page. May we get
 9 that, please?
 10 MR. JENSEN: Yes.
 11 MR. SMITH: Okay. That was 18.
 12 Now 19.
 13 (Wade Deposition Exhibit Number 19 was
 14 marked for identification.)
 15 BY MR. SMITH:
 16 Q. Okay. What is Number 19?
 17 A. It appears to be a section from SMT
 18 notes again.
 19 Q. Okay. Can you tell from the context
 20 what the date of Exhibit 19 is?
 21 A. No.

Page 253

1 Q. Can you tell from the context who
2 prepared Exhibit 19?
3 A. No.
4 Q. This references an agreement, "SMT
5 members" and I'm quoting, "agreed to initiate
6 legal action against Beehive Telephone Company
7 (BTC) to recover the outstanding balance due on
8 the BTC account. SMT members also agreed to the
9 'allocation' of numbers currently listed under
10 the BTC RespOrg identification code." From that
11 context, isn't it fair to conclude that
12 Exhibit 19 precedes the complaint that DSMI filed
13 against Beehive in the summer of 1996?
14 A. I don't know when this action would
15 have occurred. It would have been early on.
16 Q. Well, what other suit has been filed
17 to your knowledge against BTC for a balance due
18 on an account that involves DSMI?
19 A. There's only one, I think.
20 Q. And wasn't that in March or April of
21 1996 or thereabouts?

Page 254

1 A. I don't recall.
2 Q. Okay. Isn't that the complaint that
3 was filed in Federal District Court in Utah?
4 A. I believe that's where it was filed.
5 Q. Are you aware of any other filing for
6 collection of an account against Beehive?
7 A. No.
8 Q. All right. What does it mean when it
9 says, "SMT members also agreed to the
10 'allocation' of numbers currently listed under
11 the BTC RespOrg identification code"?
12 A. In the tariff there is a process
13 defined for the handling of numbers once they
14 don't have a valid RespOrg associated with them
15 any longer.
16 Q. Okay. Is that what was discussed at
17 the meeting that's reflected in Exhibit 19?
18 A. Evidently.
19 Q. Do you know?
20 A. No.
21 Q. Can you remember?

Page 255

1 A. No.
2 Q. Okay. Do you remember whether the
3 allocation discussion specifically referenced
4 whatever is in the tariff?
5 A. No.
6 Q. Do you remember what section of the
7 tariff deals with this so-called allocation
8 method?
9 A. No.
10 Q. Do you remember who brought up the
11 idea of allocating Beehive's 629 numbers?
12 A. No.
13 Q. Do you remember what was proposed in
14 terms of who got what in the allocation process?
15 A. No.
16 Q. Do you remember whether any of the SMT
17 members or the RBOC with which they're affiliated
18 are RespOrgs at this time? By "this time," I
19 mean the summer of 1996.
20 A. I think they've all been RespOrgs
21 since the beginning.

Page 256

1 Q. Okay. Do you remember whether there
2 was a discussion that any of the RBOCs acting as
3 RespOrgs would get an allocation of the 629
4 numbers?
5 A. No.
6 Q. In the summer of 1996, isn't it true
7 that the pool of 800 numbers was nearing
8 exhaustion, in fact, even before that time?
9 A. I'm not sure exactly when we opened
10 888.
11 Q. Weren't you discussing --
12 A. Probably '96. I think that may be
13 right.
14 Q. Even before 1996, the upcoming
15 exhaustion of 800 numbers and what to do about
16 it?
17 A. If 888 was opened in '96, then
18 probably in early '96 or late '95 there were
19 discussions, yes.
20 Q. In any of your meetings with the SMT
21 in 1995 and 1996, did you hear a discussion about

Page 257

1 the dwindling supply of 800 numbers, Beehive's
2 handling of 10,000 of these, and what to do about
3 recapturing those to get them back into this
4 pool? Was that kind of discussion had with your
5 SMT group?

6 **A. Those are three unrelated topics.**

7 Q. Well, I'm wondering whether you
8 discussed them in relationship to each other at
9 any time during your SMT meetings?

10 **A. Not that I recall.**

11 Q. Okay. Is that because the 10,000 held
12 by Beehive are such a small fraction of the
13 overall numbers that that relationship is not
14 important?

15 **A. I can't respond to that.**

16 Q. Okay. But you can't remember that
17 there was no discussion of those three things in
18 relationship to each other at any of these SMT
19 meetings in 1995 and 1996?

20 **A. I didn't recall any joint discussion**
21 **of those three topics.**

Page 258

1 Q. If there had been such a discussion,
2 would it be reflected in the minutes somewhere?

3 **A. Probably at least at a high level.**

4 Q. And haven't you given us all copies of
5 the minutes that are related to Beehive Telephone
6 Company?

7 **A. Yes.**

8 MR. JENSEN: Do you want to take
9 another break?

10 MR. SMITH: Do you need a break.

11 MR. JENSEN: If you need one.

12 MR. SMITH: Sure.

13 (Pause in the proceedings.)

14 BY MR. SMITH:

15 Q. Okay. Mr. Wade, when Beehive first
16 made its motion to cite DSMI for contempt before
17 Judge Kimball earlier this year, your counsel
18 submitted a request to the court to postpone any
19 consideration of the contempt matter pending the
20 outcome of proceedings before the Federal
21 Communication Commission. You were aware of

Page 259

1 that, I suppose?

2 **A. I don't know if that's -- I think that**
3 **is accurate.**

4 Q. Did they send copies of their
5 pleadings to you for your review?

6 **A. I've seen copies of it.**

7 Q. There was a representation made in the
8 motion papers seeking continuance that the FCC
9 was predicted to decide what's in its current
10 docket involving Beehive no later than the fall
11 of this year. Did you read that when you read
12 the papers?

13 **A. That -- I'm sorry?**

14 Q. That particular prediction.

15 **A. In the papers that --**

16 Q. The gist of it was, Judge Kimball, you
17 can put off hearing the contempt matter because
18 the FCC shortly will rule and that will take care
19 of things and they're going to rule no later than
20 X month in 2000. That was the gist of what was
21 said. Do you remember reading that or something

Page 260

1 like that?

2 **A. I don't recall specifically, but --**

3 Q. Do you have any knowledge concerning
4 the basis of this prediction in those motion
5 papers that your company had its counsel file
6 with the court in Utah?

7 **A. I'm sorry. Say that again. Do I have**
8 **any --**

9 Q. Do you have any knowledge respecting
10 the basis or the ground for making that
11 prediction?

12 **A. Some.**

13 Q. Okay. What is that basis? What is
14 the basis of your knowledge in that regard?

15 **A. We had been at the Commission for a**
16 **discussion about -- what were we there**
17 **discussing? It doesn't matter. Performance**
18 **issues, I think it was. But during that**
19 **discussion with the Commission, some of the**
20 **Commission staff stated they expected to have an**
21 **order out this summer. I believe it was what**

Page 261

1 they said at the time, June, July, August time
2 frame.
3 Q. Who was present at that meeting when
4 you heard that?
5 A. From who? From what companies?
6 Q. Who was present? What individuals?
7 A. Oh, there was probably a dozen of
8 them. I don't know half the names.
9 Q. You were there?
10 A. I was there; Marie Breslin was there
11 from Bell Atlantic; Ellen Oteo was there from
12 Bell Atlantic.
13 Q. Who were the Commission staff?
14 A. Marty Schwimmer was there from the
15 Commission; Les Seltzer, I believe, was there.
16 Q. Anybody from Beehive there?
17 A. No.
18 Q. Okay. Was Mr. Lukas there?
19 A. No.
20 Q. Okay. So you were there and other
21 members of the SM team or representatives of the

Page 262

1 RBOCs, your counsel were there, the indicated
2 Commission staff were there. Anybody else that
3 you can remember?
4 A. I'm not sure if counsel was there.
5 Q. Your counsel weren't there? Any RBOC
6 counsel there?
7 A. I don't think so.
8 Q. What was the context of the
9 discussion? Why did the subject of the timing of
10 the ruling come up?
11 A. I don't recall. I believe somebody
12 just asked them what the status was of the order.
13 Q. Okay. What else was said, if
14 anything?
15 A. About?
16 Q. About the order, the proceeding.
17 A. That's all that I remember.
18 Q. Okay. So you don't remember anything
19 else being said from your side? Do you remember
20 anything else being said from the Commission
21 side, the staff side?

Page 263

1 A. No.
2 Q. Okay. Can you remember where the
3 meeting occurred, what building?
4 A. At the portals building.
5 Q. When and what month?
6 A. I would guess May.
7 Q. May of 2000?
8 A. Yes.
9 Q. Okay. You say you were down there on
10 a particular item of business yourself, a
11 performance review. Is there a docket connected
12 with that?
13 A. No, I don't think so.
14 Q. Okay. Was it just an informal
15 meeting?
16 A. It was -- I'm not sure what that
17 means.
18 Q. It didn't arise out of any particular
19 docket? It involved something less than a formal
20 matter before the Commission?
21 A. It was driven by concerns that had

Page 264

1 been expressed by some of the industry players
2 about the performance of the links between the
3 SMS and the SCP.
4 Q. SCP?
5 A. Right.
6 Q. What does that stand for?
7 A. Service Control Point.
8 Q. What were the expressed concerns that
9 came to the calling of this meeting?
10 A. That the performance was slow, records
11 were not being downloaded as quickly as they
12 should be.
13 Q. Who had expressed the concern?
14 A. MCI, Sprint, and AT&T, I believe.
15 Q. Were representatives from those
16 companies there at this meeting you described?
17 A. No.
18 Q. Did you have a good vacation?
19 A. Fair.
20 Q. Where did you go?
21 MR. JENSEN: I'll object. There's

Page 265

1 really no reason to get into where he went on his
2 personal vacation.

3 BY MR. SMITH:

4 Q. Just curious.

5 A. A couple of day trips.

6 Q. Now you mentioned that the RBOCs have
7 all been RespOrgs from the beginning, correct?

8 A. Yes.

9 Q. And do the RBOCs also subscribe to any
10 of these numbers?

11 A. I wouldn't know that.

12 Q. Why wouldn't you know that?

13 A. Why would I know that? How would I
14 know that?

15 Q. You just don't look into those things,
16 who the subscribers are in relation to any
17 particular RespOrg?

18 A. No.

19 Q. You've never done that with an RBOC
20 acting as RespOrg? You've never double checked
21 on an RBOC as RespOrg and who their subscribers

Page 266

1 might be?

2 A. The system doesn't maintain subscriber
3 information for most of the records that are in
4 it.

5 Q. Okay. You've never looked after
6 RBOCs/RespOrg subscriber relationships and
7 whether they have bona fide business needs for
8 the numbers that they have; is that true?

9 A. That's true.

10 Q. You don't monitor the RBOC/RespOrg
11 subscribers at any time since you became
12 president of DSMI to check on how many calls are
13 going through those numbers or what use is being
14 put of those numbers?

15 A. We have no way of knowing that
16 information.

17 Q. Okay. What financial incentives are
18 present to an RBOC acting as a RespOrg in terms
19 of taking in an assignment of numbers and putting
20 them to use with subscribers? How would they
21 make money on that deal?

Page 267

1 A. I have no idea what you're asking me.

2 Q. Well, they're not in this business

3 just out of the goodness of their hearts and to
4 do service for the common good, and -- they're in
5 it to make money, aren't they?

6 A. The RBOCs?

7 Q. Yes, serving as RespOrgs.

8 A. I assume that's the reason every
9 RespOrg is in service.

10 Q. How did these RespOrgs/RBOCs make
11 money?

12 A. That's not our end of the business.

13 Q. The SMI doesn't care, okay. Do you
14 know from your personal experience in the
15 industry what financial incentives are there for
16 them to go out and use these numbers for the
17 subscribers?

18 A. No.

19 Q. You have no idea?

20 A. None.

21 Q. None whatsoever?

Page 268

1 A. None.

2 Q. If they had a real popular number
3 because it was a vanity number and it had a lot
4 of traffic on it and that traffic flowed over
5 their lines, would that be a financial incentive
6 that might induce them to place those numbers?

7 A. To place what numbers?

8 Q. The toll free numbers.

9 A. That's not a question of whether they
10 want to place it. The question is who the
11 subscriber wants as their carrier.

12 Q. But isn't practice at work why the
13 RespOrg is going out and hustling and drumming up
14 business and getting subscribers?

15 A. I have no idea.

16 Q. Because you don't monitor that?

17 A. We're not connected with that end of
18 the service.

19 Q. Now is that considered selling or
20 marketing numbers when an RBOC/RespOrg goes out
21 and gets subscribers to use the numbers within

Page 269

1 the meaning of this language that you keep
2 putting in your affidavits and that Floyd keeps
3 quoting in his briefs? Marketing, I think, is
4 the word.

5 **A. I have no idea what you're talking**
6 **about.**

7 **Q.** Because you don't look at that
8 relationship when an RBOC as RespOrg takes an
9 assignment of numbers. At that point you don't
10 go looking at them to see if they're marketing or
11 selling or brokering or exploiting or anything of
12 the sort, do you, at DSMI?

13 **A. We don't monitor the relationship**
14 **between RespOrgs and their subscribers or any**
15 **RespOrgs.**

16 **Q.** How about at the SMT? Do you do it
17 there?

18 **A. Do we do what there?**

19 **Q.** Look at the RespOrg subscriber
20 relationship to see if there's any abuse of the
21 numbers in that relationship?

Page 270

1 **A. No.**

2 **Q.** Okay. Is it true to say that certain
3 of the 800 numbers have more exploitative value
4 than the 888 or other serial numbers?

5 **MR. JENSEN:** I'll object. I don't
6 think you've established a foundation for him to
7 give an opinion.

8 **MR. SMITH:** He's dealt with number
9 portability for 20 years at Bellecore and at DSMI.
10 He's at the center of that industry.

11 **BY MR. SMITH:**

12 **Q.** You don't know anything about the
13 financial inducements or values attributable to
14 these numbers?

15 **MR. JENSEN:** Let me restate the
16 objection just for the record. I think your
17 question is asking him to provide an opinion on a
18 subject that he has not been qualified as an
19 expert on. He's not being offered as an expert
20 on that subject, so I don't think he can give his
21 opinion on it.

Page 271

1 **BY MR. SMITH:**

2 **Q.** Okay. That's the objection. What's
3 your answer to the question?

4 **A. What was the question?**

5 **Q.** What I'm driving at, Mr. Wade, is that
6 at a hearing attended by myself and Floyd in
7 front of Judge Jenkins, Floyd indicated the
8 possibility that some of these 800 numbers, like
9 those in the 629 series, might have more value
10 than some in the later series. I'm trying to get
11 at the foundation for that and whether it came
12 from your end of the thing or from someplace
13 else.

14 **MR. JENSEN:** It sounds like I should
15 be the deponent for that kind of a question.

16 **MR. SMITH:** I don't want to ask you,
17 but I do want to ask Mr. Wade.

18 **THE WITNESS:** I don't have any
19 information on valuations associated with
20 numbers.

21 **BY MR. SMITH:**

Page 272

1 **Q.** What I've been hearing from you now --
2 and I've really belabored this point, and I have
3 to apologize to some extent because I know it's
4 been boring, but -- and Floyd may object because
5 I'm going to characterize your testimony, but
6 he'll object if he wants to. You don't monitor
7 the RespOrg subscriber relationship; you don't
8 have any responsibility for that; you never have;
9 you don't know what the financial situations are
10 that drive that relationship and that induce
11 those kind of contracts and whatever terms that
12 are negotiated there; you just don't have any
13 experience and you don't have any qualifications
14 to look at that. That's what I'm hearing. Is
15 that a fair statement?

16 **A. I'm not sure I would phrase it that**
17 **way.**

18 **Q.** I know it was sort of rhetorical, but
19 is the substance of what I've said in terms of
20 the description of your experience and your
21 responsibilities at DSMI true?

Page 273

1 A. Our responsibilities have to do with
2 the SMS/800 tariff, which is not impacted or does
3 not impact RespOrg subscriber relationships.

4 Q. And you don't know what business needs
5 or financial concerns would be at the core of the
6 subscriber-RespOrg relationship?

7 A. It's not our part of the business.

8 Q. Okay. So you don't know? Is that a
9 fair statement?

10 A. That's fair.

11 Q. Okay. What procedures are followed at
12 DSMI to ensure that there is no human
13 intervention in terms of computer programming to
14 impact the ideal neutral administration of
15 numbers through the DSMI database?

16 A. I don't understand that question.

17 Q. Let me give you an analogous
18 situation. This is real simple and just
19 analogous. Ski resort, you got people giving
20 lift tickets, selling tickets, cash is here, cash
21 is there, credit cards, whatever. There's money

Page 274

1 afloat. An accounting firm will come in, and it
2 will say, here are cash control protocols under
3 accepted accounting practices and if you follow
4 these you won't lose cash or you won't lose as
5 much. Now what do you do at DSMI to keep your
6 computer from losing numbers because somebody
7 with a bias gets in there and changes the
8 programming? Is there a set of written protocols
9 that protect your database against that kind of
10 human impact?

11 A. Are you talking about intervention on
12 the part of a vendor or intervention on the
13 part --

14 Q. On the part of anybody.

15 A. Well, "anybody" is such a broad
16 question. How do you answer that?

17 Q. You answer it by telling me whether
18 you have a written procedure that keeps this
19 computer database pure.

20 A. We believe the database is secure,
21 yes.

Page 275

1 Q. What is the procedure that
2 accomplishes that?

3 A. In terms of what aspect.

4 Q. In terms of any aspect?

5 A. That's too broad to answer.

6 Q. Well, is there something written down
7 someplace?

8 A. There are lots of things written down
9 lots of places.

10 Q. Well, start for me. Where are they
11 written down?

12 A. Where -- what are we talking about
13 here?

14 Q. Procedure to prevent human
15 intervention in polluting the database?

16 A. There are a variety of security
17 manuals that are written and in place that deal
18 with kinds of things that people need to do to
19 get access to the system. There are quality
20 measures that are in place and quality processes
21 that are in place to ensure the software is

Page 276

1 tested and debugged.

2 Q. Periodic checking?

3 A. Periodic checking of what?

4 Q. Of whether these precautionary
5 measures are working.

6 A. Yes.

7 Q. Okay. How often?

8 A. At least annually. More frequently in
9 certain areas.

10 Q. Okay. The areas that are checked with
11 greater frequency, are those the areas thought to
12 be more vulnerable?

13 A. I don't think we have vulnerable
14 areas. We do our best to make sure that we
15 don't.

16 Q. Why do you check some more frequently
17 than others?

18 A. Some are tied to software releases.
19 Every time we put a software release in it, we
20 run it through the test. Some are tied to vendor
21 audits. They come up as vendor audits are